

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	4:06CR3114
	)	
Plaintiff,	)	
v.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
JUAN MANUEL GARZA-SILVA,	)	
	)	
Defendant.	)	

On September 27, 2007, the defendant, Juan Manuel Garza-Silva, filed a motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 (filing 41).<sup>1</sup> Normally, the court would conduct an initial review of the defendant's § 2255 motion at this time to determine whether the government must file a response.<sup>2</sup> However, the defendant has an appeal pending before the United States Court of Appeals for the Eighth Circuit regarding an order that was entered on August 16, 2007, denying his motion to obtain a transcript of the sentencing hearing. Because that appeal is closely

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<sup>1</sup> The defendant pleaded guilty to illegal reentry by a deported alien and was sentenced in November 2006 to a term of 57 months' imprisonment, followed by 3 years of supervised release.

<sup>2</sup> Rule 4(b) of the Rules Governing Section 2255 Proceedings for the United States District Courts provides:

The judge who receives the motion must promptly examine it. If it plainly appears from the motion, any attached exhibits, and the record of prior proceedings that the moving party is not entitled to relief, the judge must dismiss the motion and direct the clerk to notify the moving party. If the motion is not dismissed, the judge must order the United States attorney to file an answer, motion, or other response within a fixed time, or to take other action the judge may order.

related to the defendant's § 2255 motion, no action will be taken on the § 2255 motion until after the appeal has been concluded.<sup>3</sup>

IT IS ORDERED that initial review of the defendant's § 2255 motion (filing 41) shall be held in abeyance pending disposition by the United States Court of Appeals for the Eighth Circuit of the defendant's notice of appeal (filing 35).

November 23, 2007.

BY THE COURT:

*s/ Richard G. Kopf*  
United States District Judge

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<sup>3</sup> On November 19, 2007, the clerk of the court received an inquiry from the defendant regarding the status of his case (filing 43). This order will also serve as the court's response to that inquiry.